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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,850	06/27/2005	Alexander Hofmann	HOFMANN10	2360
1444 7590 12/30/2009 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303				
EXAMINER MCNALLY, DANIEL				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
12/30/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/540,850

Applicant(s)

HOFMANN ET AL.

Examiner

DANIEL MCNALLY

Art Unit

1791

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 17, 20, 22-24, 34 and 35

Claim(s) withdrawn from consideration: 25-33

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____

/Daniel McNally/
Examiner, Art Unit 1791

/John L. Goff/
Primary Examiner, Art Unit 1791

Continuation of 5. Applicant's reply has overcome the following rejection(s): the rejection of claims 17, 20, 22-24 and 34-35 under 35 USC 112 second paragraph.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues Savitski is concerned with butt-welding not with through-welding with laser transmissive and absorptive partners. This assertion is not correct as Savitski discloses a number of combinations for forming both butt-welds and lap-welds, including the combination shown in Figure 2 where a lap-weld is formed between a transmissive partner (40) and an absorptive partner (30) by irradiating the laser beam (12) through the transmissive partner to the absorptive partner (paragraph 0067).

Applicant asserts contour welding is more complex than the butt-welding of Savitski. Contrary to the applicant's assertion, the sleeve (40) of Savitski is more than just a sleeve that is passed over the parts to be joined in a butt-weld to hold them in place; the sleeve of Savitski is actually one of the join partners that is welded to the other parts of the assembly.

Applicant's description of contour welding and conclusion that contour welding is more sophisticated than the butt or lap welding disclosed by Savitski or Nishio is not persuasive. Applicant's description of contour welding is not commensurate with the scope of the claim, and the claim does not require any welding steps that would make the claimed process more sophisticated than the laser welding described by Savitski other than step for which Nishio was cited.

Applicant argues the thermoplastic components to be contour welded have properties that present an obstacle to laser welding, however this argument is not commensurate with the scope of the claim as the claim does not require the thermoplastic components to have any particular properties or to be made of any particular material, other than one being transmissive and the other being absorptive to laser energy.

Applicant argues Nishio teaches away from the claimed process. Applicant asserts Nishio does not deal with welding of thermoplastic molded articles, but with metal pieces. An oral translation of Nishio was acquired on 12/22/2009 which indicated Nishio describes 3a and 3b as the parts to be welded but does not disclose the type of material the parts comprise. Nishio does not explicitly require using metal pieces, and Nishio is silent as to the materials of the parts to be welded. The oral translation confirmed no material type is specified by Nishio. Because no material type is specified, it is considered the welding apparatus is suitable for welding any materials that can be welded.

Applicant argues Nishio is forming a butt-weld. However Savitski discloses it is obvious that two parts can be joined together in either butt-welds, lap-welds or both. Applicant argue Nishio discloses simultaneous exposure of the parts rather than additional and simultaneous exposure of the transmissive join partner in the welding area so that the temperature field in the welding area is homogenized. Applicant's argument is not persuasive as the applicant is arguing the references individually rather than in combination. The combination of Savitski and Nishio is not heating the join partners as arranged in Nishio, but heating the lapped join partners as disclosed in Savitski. When the lamps of Nishio are used in the laser welding process of Savitski, the temperature field in the welding area will be homogenized. With respect to claim 24, applicant argues neither one of Chen or Itagaki remedy the deficiencies of Savitski and Nishio as discussed above. The combination of Savitski and Nishio is not deficient other than the reasons for which Chen or Itagaki are cited, and applicant does not argue the reasons for which Chen or Itagaki were cited.